

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CWP No. 17346 of 1991

Date of Decision : August 18, 2010

L.S.Thakur

.... Petitioner

Vs.

State of Haryana and others

.... Respondents

CORAM : HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

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Present : Mr. Bikram Chaudhary, Advocate
for the petitioner.

Mr. D.S.Nalwa, Addl. A.G. Haryana,
for the respondents.

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AUGUSTINE GEORGE MASIH, J. (ORAL)

Prayer in the present writ petition is for issuance of a writ in the nature of mandamus directing the respondents-State of Haryana to give the benefit of revision of pay scale to the petitioner as given to the HCMS (Doctors) and Engineers vide notification dated 02.06.1989 (Annexure P-1).

It is the claim of the petitioner that he was appointed on the post of Transport Officer in the Department of Health, Government of Haryana. The qualification prescribed for appointment to the post of

Transport Officer was Matric with certificate or diploma in Mechanical or Automobile Engineering with 5 years (3 years for diploma holders) technical and administrative experience in the State Transport or in Automobile Workshop with adequate knowledge of Hindi or Punjabi. On the basis of these qualifications, it has been asserted by the petitioner that he belongs to the category of Engineers. It has further been pleaded that the petitioner is entitled to the equation of the post of Transport Officer with that of Engineer as initially, when the petitioner was appointed, the pay scale of the post, which the petitioner was holding, was higher than that of the Engineers but subsequently with the revision of pay scale w.e.f. 01.04.1979, the pay scale of the post held by the petitioner has been kept lower than those of the degree holder Engineers. From 01.01.1986, the petitioner was granted the pay scale of Rs. 2000-3500 whereas the Engineers also were granted the same scale but subsequently w.e.f. 01.05.1989, after a period of 5 years of regular service, the pay scale has been fixed at Rs. 3000-4500 and after 12 years, it would be Rs. 4100-5300. On the basis of these, the petitioner is claiming that he is entitled to the scale of Rs. 3000-4500 after 5 years of regular service and Rs. 4100-5300 after 12 years of regular service. This claim of the petitioner is primarily based on the analogy that he belongs to the category of Engineers and, therefore, would be entitled to the same benefit.

On the other hand, the respondents have taken a specific stand that the post of Transport Officer was never equated with that of an Engineer. The petitioner is holding a diploma in Engineering whereas he is claiming the benefit of equation of pay with that of degree holder Engineers. The petitioner was placed in the pay scale of Rs. 2000-3500 w.e.f. 01.01.1986 but as a measure personal to him and taking a

lenient view, the petitioner has been granted the scale of Rs. 2200-4000/- w.e.f. 01.10.1991. It has further been pleaded that the nature of duties, responsibilities, qualifications of the post of the petitioner and that of the Engineers, is totally different nor has there ever been an equation of these posts, thus, dis-entitling the petitioner to the claim, which has been made by him in the writ petition. It has further been stated that the pay scale of the petitioner became same as that of the Engineers because of the bunching of various pay scales when the revision of the pay scales took place.

Counsel for the petitioner submits that as the petitioner holds the minimum qualification, which requires a diploma in Automobile Engineering, therefore, for all intents and purposes, he should be treated as an Engineer and thus, entitled to the pay scale, which has been granted to the Engineers vide notification dated 02.06.1989.

On the other hand, counsel for the respondents submits that the notification dated 02.06.1989 (Annexure P-1), reliance whereof has been made by the petitioner, is specifically applicable only to the Doctors and Engineers. Merely because the petitioner holds the diploma in Automobile Engineering, does not entitle him the benefit of the post of an Engineer, especially when there is no equation of the said post and further that the qualifications, responsibilities and duties are different. He further contends that it is not a function of the Court to equate the post or grant equation of pay scales, which should be left to the Expert Bodies and the Executives. In support of this contention, he relies upon a judgment of the Hon'ble Supreme Court in the case of **State of U.P. vs. J.P.Chaurasia**, 1989 (1) SCC 121.

I have heard the counsel for the parties and have gone through the records of the case.

It is not in dispute that the qualifications, duties, responsibilities and the work performed by the petitioner and the Engineers is different. There has never been an equation of the two posts nor has the post of Transport Officer ever been declared as a post of an Engineer. That being so, the notification dated 02.06.1989 would not be applicable to the petitioner. Further, the pay scale and the post also can be equated by an Expert Body which the Court should refrain from performing the role unless there is overwhelming evidence on record in this regard. Generally, it should be left open to the Executives to perform the said responsibility. The Hon'ble Supreme Court in the case of **State of U.P. vs. J.P.Chaurasia** (supra) has also held on similar lines.

In view of the above, finding no merit in the present writ petition, the same stands dismissed.

August 18, 2010
pj

(AUGUSTINE GEORGE MASIH)
JUDGE